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Chair: Ms. Mejía Vélez (Colombia)

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The meeting was called to order at 3 p.m.

Agenda item 68: Promotion and protection of human rights (continued) (A/71/40; A/C.3/71/4 and A/C.3/71/5)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (continued) (A/71/56, A/71/254, A/71/255, A/71/269, A/71/271, A/71/273, A/71/278, A/71/279, A/71/280, A/71/281, A/71/282, A/71/284, A/71/285, A/71/286, A/71/287, A/71/291, A/71/299, A/71/302, A/71/303, A/71/304, A/71/305, A/71/310, A/71/314, A/71/317, A/71/319, A/71/332, A/71/344, A/71/344 Corr.1, A/71/348, A/71/358, A/71/367, A/71/368, A/71/369, A/71/372, A/71/373, A/71/384, A/71/385 and A/71/405)

(c) Human rights situations and reports of special rapporteurs and representatives (continued) (A/71/308, A/71/361, A/71/374, A/71/379-S/2016/788, A/71/394, A/71/402, A/71/418, A/71/439, A/71/540-S/2016/839 and A/71/554)

1. **Mr. Forst** (Special Rapporteur on the situation of human rights defenders), introducing his report (A/71/281), said that the reported average of three environmental human rights defenders killed each week was probably a gross underestimate. Environmental defenders were being murdered, threatened, arbitrarily arrested, intimidated and harassed in growing numbers. Many were activists not by choice but as a matter of survival, and faced considerable risks in their efforts to protect the rights of their communities to the land and their ancestral way of life. Women defenders were particularly vulnerable, as they could be the target of gender-based violence, and often encountered numerous obstacles when seeking justice and reparations.

2. While murders of environmental defenders in countries such as Honduras, Brazil, Mexico and the Philippines were very much in the news, conflicts were brewing elsewhere — in Madagascar, Papua New Guinea and Cambodia, for example — and defenders came under attack even in countries such as the United States of America, South Africa, Canada and Australia. Alarming, most aggression against them went largely unpunished, leaving victims and their families in great

distress and sending the message that some lives were less valuable than profits.

3. He was worried and appalled not only by the growing number of attacks and murders of environmental defenders but also by States' continued reluctance to act in the face of egregious human rights violations. Despite the primary responsibility of States for protecting human rights and human rights defenders, companies, their subcontractors, international development banks, local lenders and private security firms were also bound by those obligations. The media also shared in the blame when it relayed smear campaigns targeting environmental rights defenders.

4. He applauded the guidelines developed by the Working Group on business and human rights. Although some initiatives had been taken — for example, certain mining companies in Canada and Australia had recently adopted mechanisms or procedures for protecting environmental defenders — the results remained to be seen, and most such measures were largely ineffective because they were triggered by violations; what was needed was consultation and cooperation with local communities and environmental defenders from the outset. The active participation of environmental defenders in the planning and monitoring of development projects almost always ensured harmonious and sustainable development.

5. Environmental human rights defenders played a critical role in ensuring that development was sustainable, inclusive and non-discriminatory. In his report, he urged States, first, to respect the right of everyone to promote and protect a safe, healthy and sustainable environment and, second, to protect defenders from violations committed by both State and non-State actors. Besides the legal imperative, protecting human rights defenders was a matter of self-interest for States, with a view to ensuring a sustainable future. He called on all actors to adopt a zero-tolerance approach to violence against environmental human rights defenders and to launch policies and mechanisms to empower and protect them. He also called for better monitoring and documentation of the situation of defenders who were at risk, especially in countries of concern, with a view to advocating more actionable and effective measures for

their protection. The report should be read in conjunction with his 2016 report to the Human Rights Council (A/HRC/31/55) on good practices in the protection of human rights defenders.

6. During the most recent reporting period, he had received an increasing number of requests for action from various sources, including civil society, regional networks, national human rights institutions, United Nations country offices and regional organizations, and had sent nearly 200 communications to States regarding the situation of more than 340 human rights defenders. He was concerned about not only the high number of complaints that he continued to receive but also the absence or inadequacy of State responses. Since October 2015, he had carried out country visits to Hungary, Azerbaijan and Australia. With the generous support of certain Governments, he had been able to continue and expand his participation in working visits, conferences and meetings on the protection and promotion of human rights defenders around the world.

7. **Ms. Stener** (Norway) said that her country was appalled by the growing trend of violence against environmental human rights defenders. Such attacks could severely hamper the realization of economic, social and cultural rights and undermine social cohesion and, ultimately, development and stability. Empowering environmental defenders was crucial to the protection of the environment and all other related rights and, thus, the success of the 2030 Agenda for Sustainable Development.

8. As former Special Rapporteurs on the situation of human rights defenders had found, economic, social and cultural rights were among the most dangerous to defend. At the seventieth session of the General Assembly and the thirty-first session of the Human Rights Council, large majorities of the delegations had supported clear, principled and concrete calls to protect and facilitate the work of defenders of economic, cultural and social rights. The Special Rapporteur's recommendations were another such call for action. Implementing them would require the concerted efforts of State and non-State actors, including financial institutions and business enterprises. Norway urged all States to cooperate with the Special Rapporteur and all special procedures and to issue standing invitations to visit their countries.

9. **Mr. de la Mora Salcedo** (Mexico) said that his Government recognized the crucial work of human rights defenders and condemned any aggression against them. Mexico's Protection Mechanism for Human Rights Defenders and Journalists coordinated efforts to promote a safe environment for the exercise of freedom of expression across the public sector and between it and civil society. Mexico looked forward to the Special Rapporteur's visit in January 2017.

10. **Ms. Ryan** (United States of America) said that, in view of the important role played by civil society in the United Nations system, it was regrettable that over the past year human rights activists from a number of countries had either been prevented by their Governments from travelling to United Nations meetings or been subject to reprisals for their participation in such activities. Her delegation would appreciate the Special Rapporteur's views on the most critical elements for protecting human rights defenders, especially the most vulnerable among them, as well as his recommendations to regional organizations, businesses and other stakeholders with respect to promoting civic space, including reporting incidents of reprisals against those who engaged with the United Nations.

11. **Ms. Hindley** (United Kingdom) said that her delegation strongly supported the Special Rapporteur's call for a zero-tolerance approach and would be interested in his views on how such an approach should be promoted and implemented. Since many of the challenges facing human rights defenders, especially those working on environmental issues, came from business, Governments should encourage and help business enterprises to incorporate the recommendations of the Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights into their operations. She asked how government and business could best work together to support human rights defenders.

12. **Mr. Heinzer** (Switzerland) said that his delegation would be interested in the Special Rapporteur's views on the national action plans for implementing the Guiding Principles on Business and Human Rights and on how States could help businesses comply with their human rights obligations. It also wished to know how the General Assembly and the

Human Rights Council should follow up on violations against environmental rights defenders.

13. **Mr. Ruiz Blanco** (Colombia) said that his Government attached great importance to protecting human rights defenders and promoting their work, and it agreed that special attention should be paid to the most vulnerable groups, including women and lesbian, gay and transgender human rights defenders, in order to lessen the stigmatization they faced. It had developed high-level mechanisms for cooperation with civil society and the international community on implementing measures for that purpose, and it was endeavouring to strengthen human rights organizations, whose recommendations would be used to develop a comprehensive public policy on the defence of human rights and strengthening of democracy. Since 2011, the National Roundtable on Safeguards had met three times to strengthen its own structure and that of the National Protection Unit.

14. **Ms. Karimdoost** (Islamic Republic of Iran) said that State and non-State actors had a parallel duty to prevent environmental violations and respect the environment. She asked the Special Rapporteur if he considered park and forest rangers to be environmental rights defenders and, if so, how States could promote and protect their rights more effectively.

15. **Ms. Anichina** (Russian Federation) said that it was regrettable that in his report, the Special Rapporteur had used a very complex topic to promote concepts backed by a specific group of States, which should stop trying to impose their vision of the way to implement the 2030 Agenda. The report employed the pseudo-legal terms "environmental human rights" and "environmental human rights defenders" in clear breach of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. In addition, it plainly advocated establishing a special regime for the protection of a specific group of human rights defenders or non-governmental organizations that would create an artificial hierarchy among defenders, in violation of the principle of equal treatment, particularly since the group in question was not a socially vulnerable group. It would be more appropriate to focus on creating a favourable

environment for the work of all human rights defenders.

16. **Ms. Klopčič** (Slovenia) said that achieving universal respect for human rights hinged on effective human rights education at all levels. A clean, safe and sustainable environment was essential for the enjoyment of all human rights. She asked the Special Rapporteur what norms applied to non-State actors which had committed violations against human rights defenders and how the Guiding Principles on Business and Human Rights could best be used to protect human rights defenders. She would also appreciate further details on protection mechanisms for environmental rights defenders, particularly in relation to women defenders, indigenous peoples and marginalized communities.

17. **Mr. Oppenheimer** (Netherlands), stressing the importance of human rights defenders as agents of change and progress, said that his delegation shared the Special Rapporteur's concern about increasing violence against environmental rights defenders. Regarding his call for an international treaty to prevent and address human rights violations by transnational and national business enterprises, he asked what gaps in international law such a treaty might close. He would also appreciate additional examples of measures and best practices for States in developing protection mechanisms for environmental rights defenders, taking into account the intersectional dimensions of violations against women defenders, indigenous peoples and rural and marginalized communities.

18. **Ms. Ortega Gutierrez** (Spain) said that the structural causes at the root of the increasingly frequent conflicts involving environmental human rights and the exploitation of natural resources included the exclusion of environmental rights defenders and communities from the decision-making process for development plans and projects. Her country shared the Special Rapporteur's concern about the absence of independent investigations of acts of aggression against environmental human rights defenders, supported his call for zero tolerance and agreed with the need for mechanisms to empower and protect environmental rights defenders. It supported a preventive approach encompassing positive publicity for their work and effective application of the right to participation and consultation. It also advocated

capacity-building for defenders with a view to ensuring accountability and reparation. She asked what type of support the Special Rapporteur would give to transnational legal action and litigation.

19. **Ms. Moreira Costa Pittella** (Brazil) said that the Special Rapporteur's focus on the situation of environmental human rights defenders was timely and necessary. Brazil urged all States to institute or strengthen programmes to protect human rights defenders and to ratify the relevant international instruments, including the International Labour Organization's Indigenous and Tribal Peoples Convention. Brazil's national programme for the protection of human rights defenders, established in 2007, offered protection to 101 indigenous leaders.

20. Brazil took issue with the Special Rapporteur's recommendation that international financial institutions should integrate a human rights-based approach in their policies for fund allocation and management, as that would constitute an attempt to influence States' actions with regard to human rights defenders, which went beyond their mandates. It also rejected his recommendation that trade agreements involving countries where human rights defenders were under threat should include measures to prevent and address violations of their rights, since the net effect might be to promote protectionism rather than human rights. However, it supported the creation of protection mechanisms for human rights defenders to report threats, as well as the launch of initiatives to address the root causes of vulnerability to threats.

21. **Mr. Kelly** (Ireland), noting the key role of human rights defenders, said that Ireland was particularly troubled by instances of reprisals against human rights defenders who had cooperated with the United Nations human rights mechanisms, including the special procedures mandate holders. He welcomed the Special Rapporteur's reference to the Guidelines against Intimidation or Reprisals (the San José Guidelines) and would appreciate examples of policies and best practices for implementing them. He asked what the Special Rapporteur's key priorities were and what support the international community could provide to him.

22. **Mr. Forax** (Observer for the European Union) said that protecting environmental human rights defenders was crucial for the protection of the

environment and the human rights that depended on it. He welcomed the Special Rapporteur's call to ensure the meaningful participation of environmental human rights defenders and affected communities in the implementation of the 2030 Agenda and to empower and protect defenders at the international, regional and national levels. He asked the Special Rapporteur to suggest measures and best practices to assist States in meeting their obligation to protect environmental human rights defenders. He also asked how the international community and other stakeholders could coordinate and enhance their efforts to protect human rights defenders.

23. **Ms. Lai** (Canada) said that, through the Community of Democracies' Working Group on Enabling and Protecting Civil Society, her country was continuing to challenge the adoption of unduly restrictive laws that affected the work of civil society, including human rights defenders, and as current Chair of the Voluntary Principles on Security and Human Rights Initiative, it was working with extractive companies to mitigate human rights risks related to the deployment of public or private security. Such efforts not only had positive implications for communities but also had a reputational benefit for companies and the host country. Much remained to be done to implement the Guiding Principles on Business and Human Rights.

24. Canada encouraged Member States to work constructively with the Assistant Secretary-General for Human Rights to ensure the active participation of civil society and human rights defenders at the United Nations without fear of reprisals. She asked the Special Rapporteur for examples of current norms, structures and models for protecting the rights of peaceful environmental defenders, as well as examples of multi-stakeholder engagement strategies for ensuring that all views were understood and the root causes of challenges and threats were tackled effectively.

25. **Ms. Brodská** (Czechia), noting that human rights defenders could not carry out their work without access to information; freedom of expression, peaceful assembly and association; and participation in decision-making, asked the Special Rapporteur for his recommendations on a human rights-based approach to implementing the 2030 Agenda.

26. **Ms. Duda-Plonka** (Poland) said that there was a clear need to create a culture of respect for human

rights. She asked the Special Rapporteur what further action the General Assembly and the Human Rights Council could take to prevent violations of the rights of human rights defenders.

27. **Ms. Charrier** (France) said that her country urged all States to protect human rights defenders and promote an environment conducive to their activities. It concurred with the Special Rapporteur on the need for protection mechanisms and for regional and international support, and it was working at the national level to protect the physical, psychological and digital security of defenders. Recalling that the Paris Agreement under the United Nations Framework Convention on Climate Change was the first international environmental accord that explicitly referred to human rights, she said that France would pay particular attention to ensuring the protection of environmental human rights defenders. She asked what steps could be taken to combat the increasing criminalization of the activities of human rights defenders.

28. **Mr. Rabi** (Morocco) said that his country welcomed the Special Rapporteur's focus on environmental human rights defenders, who often did not receive the protection afforded to other rights defenders. Indeed, there was a general reluctance to recognize environmental rights. Morocco had enshrined them in its 2011 Constitution with the same standing as other human rights and had established a national council for their protection. In the context of the preparations for the twenty-second session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Marrakesh in November 2016, it had recently hosted a colloquium on environmental law in Africa. He wondered how the international community could move from environmental protection to explicit recognition of environmental rights.

29. **Ms. Mballa Eyenga** (Cameroon), welcoming the Special Rapporteur's emphasis on environmental rights defenders, as one of the groups that should enjoy special protection, said that her delegation urged Member States and the international community to take all necessary steps to protect defenders of economic, social and cultural rights, including environmental rights and the right to development. In the context of the 2030 Agenda and the Paris Agreement on Climate

Change, she asked what more could be done to realize those rights, which were generally subordinated to civil and political rights, and were not even recognized by some States.

30. **Mr. Forst** (Special Rapporteur on the situation of human rights defenders) said that the number of delegations which had spoken in support of his mandate showed real support for improving the protection of environmental human rights defenders. Contrary to some assertions, human rights defenders did not enjoy any special protections, and strengthening safeguards for them did not mean creating a special category for them but simply ensuring that they could exercise universal rights.

31. He welcomed the new mandate received by the Assistant Secretary-General for Human Rights to address reprisals, and said that he would continue to work with regional human rights organizations on that issue. He had been informed of many cases of human rights activists who had been threatened on return to their countries for having cooperated with the United Nations system.

32. Regarding business enterprises and human rights, he had been trying to ascertain what safeguards could be put in place for activists who were threatened by transnational business enterprises, particularly extractive companies. States needed to create an environment in which businesses played a much more active role, and attention must also be given to the role of subcontractors and the value chain. He would be collaborating with the Working Group on the issue of human rights and transnational corporations and other business enterprises to provide specific recommendations in the coming months. He planned to begin sending allegation letters to companies, not just States, and he would follow up on them with more insistent questions.

33. With respect to protection mechanisms, he urged States to adopt some of the practices recommended in his latest report to the Human Rights Council. He would probably devote one of his upcoming reports to following up on his predecessor's report on the situation of women human rights defenders. In closing, he urged States that had not responded to his request to visit to issue an invitation and told others that he would like to follow up on his predecessor's country visits.

34. **Mr. Kaye** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report (A/71/373), said that the report provided a broad and transparent overview of his work and was based on a survey of responses to the hundreds of communications, including allegations, urgent appeals and legislative comments, sent to Governments under his mandate. Unfortunately, Governments had responded less than half of the time, and few had responded substantively. As a result, he was often forced to raise concerns through public means, such as press releases, or through other mechanisms, such as amicus curiae filings. He had also adopted a new policy of publicly posting all commentaries on legislation and regulatory and policy proposals on the website of the Office of the United Nations High Commissioner for Human Rights.

35. A grim picture emerged from the information received. New forms of censorship in the digital age were combining with old tools to repress freedom of opinion and expression. In line with article 19 of the International Covenant on Civil and Political Rights, which required that any restriction on freedom of expression, but not of opinion, must be provided by law and be necessary and proportionate in order to protect a legitimate objective, a law must make clear what constituted unlawful behaviour. Yet laws often proscribed behaviour on vague grounds, and were adopted without allowing sufficient time for public scrutiny or providing for adequate independent review of claims of violations.

36. States were enacting disproportionate restrictions in order to undermine digital security and promote mass and targeted surveillance, disrupt Internet and telecommunications services and censor information that was in the public interest on the grounds of national security and public order. They were also adopting legislation that criminalized extremism without defining key terms and instituting broad restrictions on speech that did not amount to incitement under article 20 of the Covenant.

37. States were also imposing restrictions in pursuit of objectives not permitted by existing sources of international human rights law. Laws criminalizing criticism of the State were being used against ordinary citizens and journalists, and counterterrorism had become a catch-all motive for throttling freedom of

expression in the media. Non-State actors had committed atrocities around the world on the basis of religious or ethnic affiliation or individual expression of belief, and some States criminalized speech that might wound religious feelings. Members of some groups faced discrimination in respect of their freedom of expression, such as laws that explicitly attacked that freedom on the basis of sexual orientation or gender identity.

38. He urged States to review and, where necessary, revise laws inconsistent with their obligations under international human rights law; to engage with special procedures to improve those laws and share examples of best practices; to support or establish regional or subregional monitoring and to support independent media and civic space. He also called on States to take all necessary measures to prevent acts of intimidation and reprisal against individuals who cooperated with United Nations mechanisms and to ensure accountability for such acts. He had been encouraged by the support of the Governments of Tajikistan and Japan for his 2016 missions and looked forward to similar support during his 2016 mission to Turkey.

39. **Mr. Dozler** (United States of America) said that global press freedom had declined to its lowest point in over a decade. People working in independent media were under constant pressure, whether physical or political, in many parts of the world. His country was particularly concerned about the rise in attacks on journalists; he asked for some examples of best practices that could assist States in providing better protection to journalists.

40. **Ms. Karimdoost** (Islamic Republic of Iran) said that freedom of opinion and expression should be exercised in accordance with articles 19 and 20 of the International Covenant on Civil and Political Rights and other relevant international instruments. She asked the Special Rapporteur how legal instruments could be used to prevent defamation of a religion under the veneer of freedom of opinion and expression.

41. **Ms. Vilde** (Latvia) said that her country was concerned about the continued deterioration of online rights. It was a strong advocate of free, independent and pluralistic media, which it was working to promote through the Baltic Centre for Media Excellence, established in Riga in 2015. She would be interested in the Special Rapporteur's observations on current trends

in critical thinking and media literacy around the world, the main challenges for promoting them and possible national and international strategies for that purpose. Digital technologies fostered democratic participation and allowed the independent voices of human rights defenders to be heard, but unlawful restrictions of freedom of expression continued to increase; she asked the Special Rapporteur to elaborate on possible measures for widening the civic space online. Her Government urged all States to engage with the special procedures and cooperate closely with them.

42. **Mr. Ríos Sánchez** (Mexico) said that Mexico had launched a series of constitutional and legislative reforms to bring the national legal framework for the protection of freedom of opinion and expression into line with the international treaties and had strengthened its institutions for protecting journalists and social communicators. His delegation applauded the Special Rapporteur's policy on transparency, which should be adopted by other special procedures and mandates, the Organization as a whole and Governments. He asked whether the Guiding Principles on Business and Human Rights were adequate in the digital age and, if not, how they could be improved.

43. **Mr. Mahidi** (Austria), referring to the increase in legislation that, under the label of counterterrorism, did not meet the requirements of the International Covenant on Civil and Political Rights, said that he would appreciate the Special Rapporteur's comments on how States could find the right balance between combating terrorism and respecting the right to freedom of expression and opinion and ensure that laws were precise and proportionate enough to protect freedom of expression yet broad enough to combat terrorism and extremism effectively.

44. **Ms. Savitri** (Indonesia) said that freedom of opinion and expression were guaranteed in her country's Constitution and laws. However, freedom of expression was not absolute, but entailed restrictions, as set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It could not be used to infringe the rights of others, and must be coupled with tolerance and the rule of law. She asked the Special Rapporteur to elaborate on the issues of digital rights, integrity of

digital communications and the role of intermediaries with regard to online rights.

45. **Mr. Al-Hussaini** (Iraq) said that freedom of expression was guaranteed under Iraq's 2005 Constitution and had been a cornerstone of Iraqi political life since 2003. However, terrorist groups were targeting freedom of expression in all of its manifestations. Civil society activists, writers, artists and journalists had been kidnapped and murdered, and a number of media workers had been killed while covering battles.

46. **Ms. Brodská** (Czechia) said that her delegation shared the concerns about the many trends working against freedom of opinion and expression. It was very important for measures to combat violent extremism to satisfy the necessity and proportionality criteria. She asked how States could be motivated to revise their laws and whether the Human Rights Council special procedures might be helpful in that respect.

47. **Mr. Forex** (Observer for the European Union) said that freedom of expression was a prerequisite for a functioning, democratically accountable society and an enabler for all human rights. The Special Rapporteur's report rightly focused on the necessity and proportionality tests for national laws and on the importance of freedom of expression online, which was deteriorating at the national level despite strong international commitments. The European Union strongly supported the principle that rights which existed offline must also be protected online, and welcomed Human Rights Council resolution 32/13 on the promotion, protection and enjoyment of human rights on the Internet (A/HRC/32/L.20), which unequivocally condemned measures to intentionally prevent or disrupt access or dissemination of information online. He asked the Special Rapporteur to share his ideas on translating international commitments into national action, including examples of best practice.

48. **Ms. Anichina** (Russian Federation) asked why the Special Rapporteur had disregarded article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination in his analysis of acceptable restrictions. It was incumbent on him to work on lifting all reservations to that article, most of which had been made by Western countries.

49. **Ms. Birštonaitė** (Lithuania) said that her country was firmly committed to the promotion and protection of freedom of opinion and expression both online and offline, including through the Freedom Online Coalition. It strongly supported the international commitments on the protection of journalists and other media workers, as well as the principle that rights existing offline must also be protected online. She would appreciate the Special Rapporteur's views on improving the implementation of current norms and guidelines on the protection of journalists, on which gaps in the existing normative framework most urgently needed to be addressed, and on how best to build support for tackling the existing climate of impunity for crimes against journalists and media workers. She also asked which instruments could best address the online intimidation of journalists, particularly women journalists.

50. **Ms. Węgrzynowska** (Poland) said that in some cases laws and policies against terrorism and other criminal activities undermined media freedom: independent journalists and activists often faced disproportionate restrictions, severe criminal charges or death threats for revealing information. Global efforts to improve protection of the freedom of opinion and of expression were a cornerstone of good governance, transparency and the rule of law. She requested examples of anti-terrorism laws whose restrictions met the requirements of proportionality, legality and necessity.

51. **Ms. Thomas Ramírez** (Cuba) said that in the Special Rapporteur's report there was an imbalance between actions to promote and protect the exercise of the right to freedom of opinion and of expression and action to ensure fulfilment of the attendant responsibilities, in line with article 19 of the Covenant. Her delegation would like the Special Rapporteur's opinion on how to ensure that journalists and others disseminating information through the broad information exchange platforms that were available adhered to ethical standards. Furthermore, when issuing opinions about the measures adopted by individual countries, it was important to verify the alleged circumstances in order to substantiate such opinions and ensure objectivity.

52. **Ms. Clayton** (United Kingdom) said that restrictions on freedom of opinion and expression were

often based on flawed rationales and an absence of legal safeguards and sought to limit political discussion or stifle legitimate political opposition. Acts of aggression against journalists, bloggers and other commentators were frequently encouraged by a climate of impunity. She asked how support for independent media and civic space could best be provided. Her delegation underscored the agreed position that rights which existed offline must also be protected online and asked how the Special Rapporteur saw his role in ensuring the implementation of Human Rights Council resolution 32/13.

53. **Ms. Moreira Costa Pittella** (Brazil) said that surveillance, including both bulk collection of data and targeted attacks on specific individuals or communities, interfered directly with the right to privacy and to freedom of opinion and expression. Any surveillance activity must be based on a publicly accessible, clear, precise, comprehensive and non-discriminatory legal framework, as required by international law. In 2014, Brazil had adopted an Internet bill of rights that guaranteed the inviolability and privacy of online communications except as provided by court order. She asked the Special Rapporteur what criteria should be used to determine if a law authorizing enhanced surveillance or limiting Internet security met the necessity and proportionality requirements.

54. **Ms. Stener** (Norway) said that her delegation was concerned about the worrisome trends of enacting laws that undermined freedom of opinion and expression and misusing legislation to restrict the work of artists, journalists, bloggers and human rights defenders and thus prevent criticism, dissent and peaceful protest; those trends must be reversed. In January 2016, Norway had launched a strategy that placed the promotion and protection of freedom of expression at the heart of its foreign policy and development assistance and set out three thematic priorities: independent media, protection, and access to information. Her delegation agreed that it was important to make use of existing global and regional monitoring mechanisms and requested the Special Rapporteur's views on how best to support such mechanisms.

55. **Ms. Becker** (Denmark) asked the Special Rapporteur to suggest ways for State actors, private-

sector actors and enterprises, civil society organizations and individuals to cooperate more closely on ensuring respect for freedom of opinion and expression. She also asked for his views on how to strike the right balance between the rights to privacy and protection of personal data and the right to seek, receive and impart information containing such data.

56. **Ms. Taye Alemayehu** (Ethiopia) said that Ethiopia's Constitution and press law protected freedom of opinion and expression. While censorship was prohibited, writers could be prosecuted for inciting violence through the social media. The so-called Zone 9 bloggers had been detained on evidence of collaboration with an illegal terrorist group, and five had been released owing to insufficient evidence. Thus, contrary to the assertion in the report, her Government had not used its Criminal Code and the Anti-Terrorism Proclamation to detain bloggers and stifle dissent.

57. **Ms. Mballa Eyenga** (Cameroon) said that her country, which had many newspapers and radio and television stations, was firmly committed to freedom of opinion and expression. She asked what concrete measures had been or could be taken to prevent the use of the Internet and other means of communication by terrorist and criminal groups for criminal purposes such as online terrorist propaganda and recruitment.

58. **Mr. Kaye** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) said that he was heartened by delegations' many references to article 19 of the International Covenant on Civil and Political Rights. With respect to the protection of journalists, it was important to ensure not only their physical security but also the security of their online communications and their sources. Regarding religion and freedom of expression, steps should be taken to reinvigorate Human Rights Council resolution 16/18 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief.

59. With respect to digital rights, in order to widen civic space, it was critical to avoid both mass and targeted surveillance insofar as possible and to allow individuals to use encryption and anonymity. On business and human rights, the Guiding Principles on Business and Human Rights provided guidance on transparency, due diligence, the human rights impact of private decisions and the availability of remedies. Regarding the complicated issue of freedom of expression and combating terrorism, the focus should be not on striking a balance but on demonstrating the necessity and proportionality of any restriction, in line with the standards set out in article 19 of the International Covenant on Civil and Political Rights. He did not have time to address the many other excellent questions, but would close by saying that the best way for States to support mechanisms and special procedures was to be as responsive as possible to communications, to extend invitations to visit and, if possible, to provide additional support, particularly financial support, to the Office of the United Nations High Commissioner for Human Rights, which was chronically under-resourced.

60. **Ms. Dandan** (Independent Expert on human rights and international solidarity) said that her most recent report to the Human Rights Council (A/HRC/32/43) had summarized five regional consultations held in 2015 and 2016 to obtain broad input on the proposed draft declaration on the right of peoples and individuals to international solidarity (A/HRC/26/34, annex). The discussions had yielded a wealth of views on a wide range of subjects, from which she had synthesized the four key issues analysed in her report to the General Assembly (A/71/280): the basis of the right to international solidarity in international law; the nature of the right to international solidarity; international solidarity and the extraterritorial obligations of States, and the role of non-State actors.

61. The framework for international solidarity derived from the Charter of the United Nations, the international human rights treaties and conventions and the many human rights and development-related commitments made at international conferences and summits and through General Assembly resolutions. General Assembly resolutions, although not legally binding, were considered part of the body of customary international law because of their acceptance by States.

When States adopted a resolution, they agreed on the principles contained in it and might turn them into standards, State practice and, ultimately, rules of international law. The same procedure could be applied to developing the right to international solidarity as an enabling right for the promotion and protection of human rights in general.

62. The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights clarified the parameters of extraterritorial obligations of States and confirmed the primacy of human rights among competing sources of international law. International cooperation, as a duty of States, had a significant bearing on the proposed draft declaration. During the regional consultations, a number of participants had argued that international solidarity should encompass civil and political rights, since States' policies and actions could have a negative extraterritorial impact on those rights, thereby extending their responsibility to individuals and groups beyond their borders. In addition, the Rio Declaration on Environment and Development requested States to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

63. Although the term "non-State actors" could sometimes refer to armed and terrorist groups, the Cotonou Agreement defined them as the private-sector; economic and social partners, including trade union organizations, and civil society and stipulated that recognition of non-governmental actors depended on the extent to which they addressed the needs of the population, on their specific competencies and whether they were organized and managed democratically and transparently.

64. International solidarity in relation to transnational business operations was closely linked to corporate social responsibility. There were conflicting opinions as to whether some enterprises in particular situations had a responsibility to go beyond respect for human rights and seek to promote them. It was worth exploring to what extent businesses might have a responsibility to give back to their customers and the communities where they operated, and to play a positive role in promoting sustainable global development.

65. It had often been said that international solidarity did not meet the requirements of a legal concept, much less a human right. In her report, she stressed the well-recognized premise that for a right to be claimable, it must have identifiable rights holders and duty bearers. The obligations of States identified in the proposed draft declaration already existed in the relevant general comments and recommendations of the various human rights treaty bodies. In her view, the right to international solidarity was a claimable right by virtue of that interface with existing international human rights law.

66. The International Covenant on Economic, Social and Cultural Rights had once been considered as a vaguely worded instrument, with no indication as to how those rights should be enforced. States had ratified it anyway, and after the Committee on Economic, Social and Cultural Rights had been established, they had started submitting their initial reports to it. From their reports and the ensuing dialogues with Committee members, it had been apparent that they had decided on their own how to implement the provisions of the Covenant. In due course, the Committee had begun its work of interpreting the Covenant through the issuance of general comments. That process illustrated how human rights could acquire claimability only through the continuous work of legal and political institutions and human rights mechanisms.

67. She hoped that the General Assembly would endorse the proposed final draft declaration, which she would be presenting to the Human Rights Council in July 2017. As she was addressing the Committee for the last time, she thanked it for its support and generosity of spirit.

68. **Ms. Thomas Ramírez** (Cuba) said that her country was grateful to the Independent Expert for the impetus that she had given to her mandate. She asked what could be done to overcome some States' reluctance to recognize the right to international solidarity and build support for the draft declaration. She also asked the Independent Expert whether she thought that enforcement mechanisms should be defined, as proposed during the regional consultations.

69. **Ms. Mouflih** (Morocco), thanking the Independent Expert for her report and her visit to Morocco, said that her delegation agreed on the importance of South-South cooperation, as a

manifestation of solidarity based on common experiences and shared goals. Morocco's foreign policy emphasized international and humanitarian solidarity, and it was working to promote South-South and triangular cooperation as well as regional and subregional partnerships. She asked the Independent Expert for more information about the regional consultations on the proposed draft declaration.

70. **Ms. Dandan** (Independent Expert on human rights and international solidarity) said that the regional consultations were described in her previous report to the Human Rights Council. She had come away from the five regional consultations with an even firmer conviction of the feasibility and enforceability of the right to international solidarity. It had become apparent that many of the participating States already had working mechanisms for implementing the right and that it could be implemented in culturally diverse ways. At the end of the day, it was up to the States to work out any objections. Human rights would always be a work in progress that could come into existence as enforceable claims only through continuous development of their myriad dimensions, through the work of local actors and that of the entire United Nations system.

The meeting rose at 5.35 p.m.